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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,890	10/17/2003	Thomas Baumgartner	5689-280	9799
20792	7590	10/19/2005	EXAMINER	
MYERS BIGEL SIBLEY & SAJOVEC PO BOX 37428 RALEIGH, NC 27627			PIERCE, JEREMY R	
			ART UNIT	PAPER NUMBER
			1771	
DATE MAILED: 10/19/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/687,890

Applicant(s)

BAUMGARTNER ET AL.

Examiner

Jeremy R. Pierce

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 19-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☒ Claim(s) 3-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/14/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election of claims 1-19 in the reply filed on August 12, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 8, 9, and 14-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Diehl (U.S. Patent No. 4,187,618).

Diehl discloses a felt comprising a set of fine top machine direction yarns and coarser bottom machine direction yarns interwoven with fine cross machine direction yarn in a plurality of repeat units (Abstract and Figure 5). A nonwoven batting overlays the top machine direction yarns (Abstract and Figure 5). With regard to claim 2, the bottom MD yarn may be multifilament yarn (column 4, lines 17-21) and can be twisted (column 3, line 18). With regard to claim 3, the bottom MD yarn may have a denier of 840 (column 4, line 20). With regard to claim 8, the ratio of top MD yarns to bottom MD

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yarns may be 2:1 (column 3, lines 35-36). With regard to claim 9, Diehl teaches that the batting may extend through the base fabric to the other side (column 4, lines 2-3). With regard to claim 14, Diehl teaches a duplex weave may be used (column 3, line 16). With regard to claim 15, one can define Figure 5 of Diehl as a repeating unit. There are two knuckles present from the CMD yarn. With regard to claim 16, one bottom MD yarn separates the two knuckles. With regard to claim 17, two knuckles from the CMD yarn are also formed over the top MD yarn. With regard to claim 18, one could define a repeating unit to comprise multiple two-knuckle floats over the top MD yarns.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-7 and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Diehl in view of Gstrein et al. (U.S. Patent No. 6,175,996).

With regard to claims 4-7, Diehl discloses the base fabric can have various types of yarn (column 3, lines 17-18), but fail to teach using monofilament yarns or yarns within the claimed diameter range. Gstrein et al. teach a felt comprising a base fabric having a batt needled into it (Abstract). Gstrein et al. disclose the base fabric may comprise two sets of MD yarns interwoven with a CMD yarn (column 4, lines 36-39). Gstrein et al. teach that weave pattern and yarn sizes and configurations are selected

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for the desired performance of the fabric (column 1, lines 42-47). Gstrein et al. teach that a suitable base fabric for the purposes of needling the batt has MD and CMD yarns that are monofilament with a diameter up to 0.3 mm (column 3, lines 5-10). It would have been obvious to a person having ordinary skill in the art at the time of the invention to use monofilament MD and CMD yarns with a diameter up to 0.3 mm in the felt of Diehl in order to create a fabric that is well suited for being needled with a batting, as taught by Gstrein.

With regard to claim 9, Diehl teaches that the batting may extend through the base fabric to the other side (column 4, lines 2-3). Gstrein teaches that it may be desirable to fully form a second batting layer on the other side of the base fabric (claim 12). It would have been obvious to a person having ordinary skill in the art at the time of the invention to further form a batt layer on the bottom side of the fabric of Diehl in order to use the felt in additional applications, as taught by Gstrein.

With regard to claims 10-13, Diehl does not disclose using a triplex fabric. Gstrein et al. teach that duplex and triplex fabrics are both known in the felt art and are equally useful (column 4, lines 24-29). It would have been obvious to a person having ordinary skill in the art at the time of the invention to use a triplex construction in the fabric of Diehl as taught by Gstrein et al., since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. *In re Leshin*, 125 USPQ 416.

Conclusion


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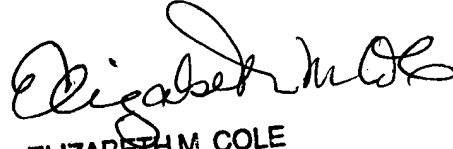
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Gstrein et al. (U.S. Patent No. 5,891,516) and Thompson (U.S. Patent No. 4,423,755).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Pierce whose telephone number is (571) 272-1479. The examiner can normally be reached on normal business hours, but works flextime hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jeremy R. Pierce
October 12, 2005


ELIZABETH M. COLE
PRIMARY EXAMINER